

SENATE BILL 702

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2003 Regular Session  
3lr2560  
CF 3lr2397

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By: **Senator Astle**

Introduced and read first time: February 20, 2003

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 26, 2003

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **City of Annapolis - Alcoholic Beverages Licensing - Enforcement**

3 FOR the purpose of specifying that if an alcoholic beverages licensee or employee of  
4 the licensee in the City of Annapolis is ~~found not guilty or~~ placed on probation  
5 before judgment for a certain alleged violation, the placement does not bar the  
6 Annapolis Alcoholic Beverage Control Board from taking certain action;  
7 authorizing the City of Annapolis to provide that a violation of a certain  
8 provision of law is a municipal infraction; altering the penalty for the violation  
9 of certain provisions; authorizing the Annapolis Police Department to serve  
10 certain summonses; authorizing the Annapolis Board of License Commissioners  
11 to impose a certain fine, license suspension, or both under certain conditions;  
12 and generally relating to alcoholic beverages in the City of Annapolis.

13 BY repealing and reenacting, without amendments,  
14 Article 2B - Alcoholic Beverages  
15 Section 12-108(a)  
16 Annotated Code of Maryland  
17 (2001 Replacement Volume and 2002 Supplement)

18 BY adding to  
19 Article 2B - Alcoholic Beverages  
20 Section 12-108(e-1)  
21 Annotated Code of Maryland  
22 (2001 Replacement Volume and 2002 Supplement)

23 BY repealing and reenacting, with amendments,

1 Article 2B - Alcoholic Beverages  
2 Section 12-202(b), 16-410(b)(2), and 16-507(c)(2)  
3 Annotated Code of Maryland  
4 (2001 Replacement Volume and 2002 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article 2B - Alcoholic Beverages**

8 12-108.

9 (a) (1) A licensee licensed under this article, or any employee of the licensee,  
10 may not sell or furnish any alcoholic beverages at any time to a person under 21 years  
11 of age:

12 (i) For the underage person's own use or for the use of any other  
13 person; or

14 (ii) To any person who, at the time of the sale, or delivery, is visibly  
15 under the influence of any alcoholic beverage.

16 (2) Any licensee or any employee of the licensee who is charged with a  
17 violation of this subsection shall receive a summons to appear in court on a certain  
18 day to answer the charges placed against that person. The person charged may not be  
19 required to post bail bond pending trial in any court of this State.

20 (3) (i) A licensee or employee of the licensee violating any of the  
21 provisions of this subsection is guilty of a misdemeanor and, upon conviction, suffers  
22 the penalties provided by § 16-503 of this article.

23 (ii) A licensee or employee of the licensee who is charged with  
24 selling or furnishing any alcoholic beverages to a person under 21 years of age may  
25 not be found guilty of a violation of this subsection, if the person establishes to the  
26 satisfaction of the jury or the court sitting as a jury that the person used due caution  
27 to establish that the person under 21 years of age was not, in fact, a person under 21  
28 years of age if a nonresident of the State.

29 (iii) If the person is a resident of the State of Maryland, the licensee  
30 or employee of the licensee may accept, as proof of a person's age, the display of the  
31 person's driver's license or identification card as provided for in the Maryland Vehicle  
32 Law.

33 (iv) Except as otherwise provided in this section, if any licensee or  
34 employee of the licensee is found not guilty, or placed on probation without a verdict,  
35 of any alleged violation of this subsection, this finding operates as a complete bar to  
36 any proceeding by any alcoholic beverage law enforcement or licensing authorities  
37 against the licensee on account of the alleged violation.

1 (E-1) (1) THIS SUBSECTION APPLIES IN THE CITY OF ANNAPOLIS  
2 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION.

3 (2) IF A LICENSEE OR EMPLOYEE OF A LICENSEE IS ~~FOUND NOT GUILTY~~  
4 ~~OR~~ PLACED ON PROBATION BEFORE JUDGMENT FOR AN ALLEGED VIOLATION OF  
5 SUBSECTION (A) OF THIS SECTION, THE PLACEMENT DOES NOT BAR THE ALCOHOLIC  
6 BEVERAGE CONTROL BOARD FROM PROCEEDING ADMINISTRATIVELY AGAINST THE  
7 LICENSEE FOR THE ALLEGED VIOLATION.

8 (3) THE CITY COUNCIL MAY PROVIDE BY ORDINANCE THAT A VIOLATION  
9 OF SUBSECTION (A)(3)(I) OF THIS SECTION IS A MUNICIPAL INFRACTION.

10 12-202.

11 (b) (1) It is unlawful for any licensee or other person to sell spirituous,  
12 fermented or intoxicating liquor or to sell, give directly or indirectly, dispose of, barter,  
13 furnish, hand over or deliver, within the corporate limits of the City of Annapolis, or  
14 within 5 miles of the City, any alcoholic beverages other than beer and light wine in  
15 any quantity whatever to any person under the age of 21 years for use by the  
16 underage person or for the use of any other person, either with or without the written  
17 order or consent of the parent or guardian of the person.

18 (2) Any person violating the provisions of this subsection is guilty of A  
19 MUNICIPAL INFRACTION AS PROVIDED IN THE CODE OF THE CITY OF ANNAPOLIS OR  
20 a misdemeanor[, and upon conviction shall be fined not more than \$100, or be  
21 imprisoned in jail for not more than 60 days, or be both fined and imprisoned in the  
22 discretion of the court].

23 (3) If any underage person wilfully represents that he is of full age and  
24 obtains any spirituous liquors, and the person selling the spirituous liquor is able to  
25 prove at the trial such misrepresentation, and that due caution was used in  
26 ascertaining the age of the underage person before giving the alcohol to the underage  
27 person and that in the exercise of reasonable caution he was deceived by the use of  
28 documentary evidence and that for this reason he was unable to ascertain that the  
29 underage person was in fact an underage person, then the person selling to the  
30 underage person shall be acquitted of the charge.

31 16-410.

32 (b) (2) (i) All summonses shall be served by the sheriff, except that:

33 1. IN THE CITY OF ANNAPOLIS, SUMMONSES MAY ALSO BE  
34 SERVED BY THE ANNAPOLIS POLICE DEPARTMENT;

35 2. In Anne Arundel County, summonses may also be served  
36 by inspectors employed by the Board and by the Anne Arundel County Police  
37 Department; and

1 [2.] 3. In Baltimore City, summonses may also be served by  
2 inspectors employed by the Board of Liquor License Commissioners for Baltimore  
3 City.

4 (ii) If any witness summoned refuses or neglects to attend, or if  
5 attending, refuses to testify, the official issuing the summons shall report the facts to  
6 the circuit court for the county. The court shall proceed by attachment against the  
7 witness in all respects as if the witness summoned to appear in the court in a case  
8 pending before it had neglected or refused to do so.

9 16-507.

10 (c) (2) In the City of Annapolis, the Board of License Commissioners may  
11 impose a fine of not more than \$1,000 [in lieu of suspension of] OR a license  
12 SUSPENSION OR BOTH for any violation that is cause for suspension under the  
13 alcoholic beverage laws of the city.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2003.